

2006

STATE OF NEBRASKA

Statutes, Rules and Regulations

Relating to:

**MANDATORY REPORTING BY HEALTH CARE PROFESSIONALS,
FACILITIES, PEER REVIEW ORGANIZATIONS, PROFESSIONAL
ASSOCIATIONS, AND INSURERS**

TITLE 172 NAC 5

NEBRASKA HEALTH AND HUMAN SERVICES SYSTEM



DEPARTMENT OF SERVICES - DEPARTMENT OF REGULATION AND LICENSURE - DEPARTMENT OF FINANCE AND SUPPORT

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Effective Date: October 9, 2006

Title 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

Chapter 5 MANDATORY REPORTING BY HEALTH CARE PROFESSIONALS,
FACILITIES, PEER REVIEW ORGANIZATIONS, PROFESSIONAL
ASSOCIATIONS, AND INSURERS

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EFFECTIVE DATE
OCTOBER 9, 2006

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

172 NAC 5

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 5 MANDATORY REPORTING BY HEALTH CARE PROFESSIONALS, FACILITIES,
PEER REVIEW ORGANIZATIONS, PROFESSIONAL ASSOCIATIONS, AND
INSURERS

5-001 SCOPE AND AUTHORITY: These regulations govern the manner and method in which health care professionals, health care facilities, peer review organizations, professional associations and insurers must report actions or conduct which may violate laws or regulations governing health care professionals who are licensed, certified, or registered by the Department. The authority for these regulations is the Uniform Licensing Law. These regulations do not apply to pharmacist interns.

5-001.01 Voluntary Complaints: Nothing in law or under these regulations is intended to preclude a health care professional, a health care facility, a peer review organization, a professional association, or an insurer from voluntarily reporting information or filing a complaint against a health care professional.

5-001.02 Duty to Provide Information for Investigations: In addition to the requirements of these regulations every health care professional and every member of a professional board must furnish the Department, upon request, such evidence as s/he may have relative to any alleged violations that is being investigated, pursuant to Neb. Rev. Stat. § 71-168.

5-002 DEFINITIONS: Except as the context requires or as is specifically provided, the following definitions apply to these regulations:

Conviction means a finding of guilt for a crime committed. Such finding may be made on a:

1. Verdict of a jury;
2. Non-jury trial before a court or other tribunal; or
3. Upon acceptance of a plea of guilty or no contest without trial.

Department means the Department of Health and Human Services Regulation and Licensure.

Employment means services performed for another for wages or salary, or under agreement or contract in partnership or association with other health care professionals.

Firsthand Knowledge means information or knowledge gleaned directly from the original source through use of the senses, such as an eyewitness.

Gross Incompetence means a demonstrated lack of proficiency, skill or ability to perform the duties and functions of the health care profession to a very high degree.

Health Care Facility means an ambulatory surgical center, an assisted-living facility, a center or group home for the developmentally disabled, a critical access hospital, a general acute hospital, a health clinic, a hospital, an intermediate care facility, an intermediate care facility for the mentally retarded, a long-term care hospital, a mental health center, a nursing facility, a pharmacy, a psychiatric or mental hospital, a public health clinic, a rehabilitation hospital, a skilled nursing facility, or a substance abuse treatment center.

Health Care Professional means an individual regulated by the Department under the Advanced Practice Registered Nurse Licensure Act, the Certified Registered Nurse Anesthetist Act, the Clinical Nurse Specialist Practice Act, Emergency Medical Services Act, the Licensed Practical Nurse-Certified Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse Practice Act, the Nurse Practitioner Act, the Occupational Therapy Practice Act, the Uniform Controlled Substances Act, the Uniform Licensing Law, the Wholesale Drug Distributor Licensing Act, or Neb. Rev. Stat. §§71-3702 to 3715, 71-4701 to 71-4719, or 71-6053 to 71-6068.

Licensee Assistance Program means the voluntary program for education, referral assistance, and monitoring of compliance with treatment of habitual intoxication or dependence. Neb. Rev. Stat. §71-172.01.

Pattern of Negligent Conduct means a continued course of failure to use the care, skill and knowledge ordinarily possessed and used under like circumstances by members of the same profession engaged in similar practices in the same or similar localities in performing the duties of the profession.

Payment means monetary compensation made by or on behalf of a health care professional due to acts or omissions of a health care professional in his/her personal or corporate capacity.

Peer Review Organization or Committee means a professional society or committee or agency thereof, including those at the national, state or local level, or a facility's peer review or utilization review committee or similar body, that engages in professional review activities through a formal peer review process to further quality of care, including notice and opportunity for hearing.

Practicing while Impaired:

1. With respect to alcohol, controlled substances or narcotic drugs means demonstrating drug or alcohol use, which diminishes or otherwise impacts the ability to practice safely or competently.
2. With respect to a physical disability means engaging in practice of some or all of the essential functions or duties of a health care profession while the ability to do so safely or competently is diminished or otherwise impacted because of physical limitations.
3. With respect to a mental or emotional disability means engaging in practice of some or all of the essential functions or duties of a health care profession while the ability to do so safely or competently is diminished or otherwise impacted due to a disorder of thought, mood, perception, orientation or memory.

Privileges means the authorization by a facility for a health care professional to provide health care services, including privileges and membership on the medical staff of the facility.

Professional Association, Society or Organization means any organization of individual health care professionals who are required to obtain a license or other legal authorization prior to performing a professional service.

Professional Liability Claim or Claim means a complaint or demand for payment based on a health care professional's provision of or failure to provide health care services, and includes complaints or demands made prior to suit and the filing of a cause of action based on the law of tort brought in any state or federal court or any adjudicative body or agency in the health care professional's personal or corporate capacity.

Uniform Licensing Law means those statutes cited in Neb. Rev. Stat. §71-101.

Unprofessional Conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or occupation or the ethics of the profession or occupation, regardless of whether a person, patient, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest, including:

1. Acts or conduct identified in Uniform Licensing Law;
2. Acts or conduct identified in the practice act or other laws regulating a health care professional;
3. Such other acts as may be defined in rules and regulations adopted and promulgated by the boards of examiners for the health care profession; and
4. Additional conduct determined by adjudication in individual contested cases involving health care professionals.

5-003 REPORTING BY HEALTH CARE PROFESSIONALS: All health care professionals must report as required by these regulations.

5-003.01 Reporting Yourself: A report must be submitted within 30 days of the occurrence of any of the following:

1. You lost your privileges in a hospital or other health care facility due to alleged:
 - a. Incompetence;
 - b. Negligence;
 - c. Unethical or unprofessional conduct; or
 - d. Physical, mental, or chemical impairment.
2. You voluntarily limited your privileges or resigned from the staff of any health care facility while under formal or informal investigation or evaluation by the facility or a committee of the facility for issues of:
 - a. Clinical competence;
 - b. Unprofessional conduct; or
 - c. Physical, mental, or chemical impairment.
3. You lost your employment due to alleged:
 - a. Negligence;
 - b. Unethical or unprofessional conduct; or
 - c. Incompetence;
 - d. Physical, mental, or chemical impairment.

4. You have had a professional liability claim that resulted in an adverse judgement, settlement, or award, including settlements made prior to suit in which the patient releases any professional liability claim against the credentialed person.
 - a. Exception: A settlement as used in 172 NAC 5-003.01 item 4 will not include the following situations:
 - (1) When a health care professional waives either all or part of an outstanding debt to resolve a patient's or client's claim;
 - (2) When a health care professional refunds either all or part of a fee paid for services, products, or devices to resolve a patient's or client's claim; or
 - (3) When a health care professional returns either all or part of any reimbursement to a third party payers for services, products, or devices provided to a patient or client to resolve a claim.
 - b. Inclusion: A settlement as used in 172 NAC 5-003.01 item 4 includes the provision of either money, devices, products or services by a health care professional to a patient or client in an amount that exceeds the total fee charged to a patient or a client to resolve a claim, including settlements made prior to the suit if the patient or client releases any professional liability claim against you. The date of the settlement for the purpose of these regulations is the date of release from the claim.
5. Your professional liability insurance coverage has been cancelled, limited, or otherwise modified due to a professional liability claim.
6. You have been refused professional liability insurance coverage on an initial or renewal basis due to a professional liability claim.
7. You have been denied a credential or other form of authorization to practice by any state, territory, or jurisdiction, including any military or federal jurisdiction, due to alleged:
 - a. Incompetence;
 - b. Negligence;
 - c. Unethical or unprofessional conduct; or
 - d. Physical, mental, or chemical impairment.
8. You have disciplinary action taken against any credential or other form of permit by another state, territory, or jurisdiction, including any federal or military jurisdiction, the settlement of such action, or any voluntary surrender of or limitation on any such credential or other form of permit.
9. You have lost membership in a professional organization due to alleged:
 - a. Incompetence;
 - b. Negligence;
 - c. Unethical or unprofessional conduct; or
 - d. Physical, mental or chemical impairment.

10. You have been convicted of any misdemeanor or felony in Nebraska or any other state, territory, or jurisdiction, including any federal or military jurisdiction.

5-003.01A Information to Report

5-003.01A1 Loss or Voluntary Limitation of Privileges or Resignation from Staff:

Reports of this type of action must be made on a form provided by the Department, a copy of which is included and has been made a part of these regulations as Attachment 1; or reports may be made on a form constructed by the reporting party. The report must include the following information:

1. Your name and date of birth;
2. Your home and work addresses and telephone numbers;
3. Your license number;
4. A description of each act or omission or other reason for the loss or voluntary limitation of privileges or resignation from staff including:
 - a. The full name, date of birth, address, and number of the patient or client involved;
 - b. A description of what occurred;
 - c. When it occurred, including the date and time, if known;
 - d. Where it occurred; and
 - e. The name, address, and telephone number of the facility taking action or conducting investigation or evaluation, the nature of the action affecting privileges that was taken, date taken, and effective date of the action.

5-003.01A2 Loss of Employment: Reports of this type of action must be made on a form provided by the Department, a copy of which is included and has been made a part of these regulations as Attachment 1; or reports may be made on a form constructed by the reporting party. The report must include the following information:

1. Your name and date of birth;
2. Your home and work addresses and telephone numbers;
3. Your license number;
4. The name, address, and telephone number of the person or entity taking the action; and
5. A description of each action, omission or other cause that lead to the loss of employment, including :
 - a. The name, address, telephone number of the patient or client or other identifying information for each person affected by the act, omission;
 - b. The date of each act, omission; and
 - c. The location of each act or omission.

5-003.01A3 Professional Liability Report: Reports of this type of action must be made on a form provided by the Department, a copy of which has been included and made part of these regulations as Attachment 1; or reports may be made on a form constructed by the reporting party.

1. The report must include the following information:
 - a. The name, address, and telephone number of the patient, client or other person to whom or for whose behalf payment was made;
 - b. The date the action or claim was filed with a court or other adjudicative body, identification of such court or body by name and address and the case number;
 - c. The name and address of the insurer, employer or other person or entity making payment of the claim;
 - d. The date(s) on which the act(s) or omission(s) which gave rise to the action or claim occurred;
 - e. The location where the act(s) or omissions(s) that gave rise to the action or claim occurred;
 - f. A description of the acts or omissions upon which the action or claim was based;
 - g. The date of judgment, settlement or award; and
 - h. The amount paid, date of payment, and whether payment was made for a judgment, settlement, or award.
 - i. The following information about the health care professional who is the subject of the report:
 - i. Name;
 - ii. Home and work addresses and telephone numbers;
 - iii. License number; and
 - iv. Date of birth.
2. The report must be submitted within 30 days of the occurrence of a payment resulting from:
 - a. An award; or
 - b. An adverse judgement.
3. To avoid duplicative reporting, a report of a malpractice payment to the Department from an insurance company no later than 30 days after the malpractice payment will satisfy the reporting of a malpractice payment by a health care professional.

5-003.01A4 Denial of or Disciplinary Action Against a Credential Report: Reports of this type of action must be made on a form provided by the Department, a copy of which has been included and made part of these regulations as Attachment 1; or reports may be made on a form constructed by the reporting party. This report must include the following information:

1. The name, address and telephone number of the board or other entity taking the action or involved in the settlement or surrender;
2. The license number(s) and professional field(s) affected by the action, settlement or surrender.
3. The date of the action was taken and the date the action became effective ; and
4. The nature of the action and a description of any terms and conditions.
5. The following information about the health care professional who is the subject of the report:
 - a. Name;

- b. Home and work addresses and telephone numbers;
- c. License Number; and
- d. Date of birth.

5-003.01A5 Loss of Professional Association Membership Report: Reports of this type of action must be made on a form provided by the Department, a copy of which has been included and made a part of these regulations as Attachment 1; or reports may be made on a form constructed by the reporting party. This report must include the following information:

- 1. The name, address, and telephone number of the professional association;
- 2. The date action was taken, the date the action become effective, and the duration of the action; and
- 3. A description of the facts surrounding the reason(s) given for the action, including:
 - a. The name, address, and telephone number of the patient or client, as applicable;
 - b. The event(s) giving rise to the action;
 - c. When each event occurred;
 - d. Where each event occurred; and
 - e. How each event occurred.
- 4. The following information about the health care professional who is the subject of the report:
 - a. Name;
 - b. Home and work addresses and telephone numbers;
 - c. License Number; and
 - d. Date of birth.

5-003.01A6 Conviction Report: Reports of this type of action must be made on a form provided by the Department, a copy of which has been included and made a part of these regulations as Attachment 1; or reports may be made on a form constructed by the reporting party. This report must include the following information:

- 1. The date of conviction;
- 2. The name and address of the court or other adjudicative body entering the conviction;
- 3. The case number;
- 4. The crime for which convicted, including its name and classification;
- 5. The sentence imposed, including its duration and any terms and conditions imposed; and
- 6. Whether the conviction is under appeal and, if so, the name and address of the court, case number, and date appeal was filed.
- 7. The following information about the health care professional who is the subject of the report:
 - a. Name;
 - b. Home and work addresses and telephone numbers;
 - c. License Number; and
 - d. Date of birth.

5-003.01A6a Exception to Reporting:

5-003.01A6a(i) Diversion: Any health care professional whose case disposition involves diversion is not required to report the diversion.

5-003.01A6b Optional Reporting:

5-003.01A6b(i) Pardon: Any health care professional who is pardoned for a conviction may report such pardon.

5-003.01A6b(ii) Set Aside: Any health care professional whose conviction is set aside may report such set aside.

5-003.01A6b(iii) Expunged: Any health care professional whose conviction records are expunged may report such expungement.

5-003.02 Reporting Persons Who Practice in the Same Profession as the Person Making the Report: Every health care professional must report when s/he has firsthand knowledge of facts giving him/her reason to believe that any person in the same profession as the person reporting has committed acts indicative of:

1. Gross incompetence;
2. A pattern of negligent conduct;
3. Unprofessional conduct;
4. Practice while that person's ability to practice may be impaired by alcohol, controlled substances, narcotic drugs, or physical, mental or emotional disability;
or
5. Other violations of laws or regulations governing the practice of the profession.

For purpose of this regulation "person in the same profession" means a person who is regulated by the same Practice Act.

5-003.03 Reporting Persons Who Practice in a Different Profession Than the Person Making the Report: Every health care professional report when s/he has firsthand knowledge of facts giving him/her reason to believe that any person in a profession different than the person reporting:

1. Has committed acts indicative of gross incompetence; or
2. May be practicing while his/her ability to practice is impaired by alcohol, controlled substances, narcotic drugs, or physical, mental or emotional disability.

For purpose of this regulation "persons in a different profession," means a person who is regulated by a different Practice Act.

5-003.04 Information to Report When Reporting Persons in the Same or a Different Profession Than the Person Making the Report: Reports must be made on a form provided by the Department, a copy of which has been included and made part of these regulations as Attachment 2; or reports may be made on a form constructed by the reporting party. This report must include the following information:

1. The act(s), omission(s) or conduct being reported;
2. When each act(s), omission(s) or conduct being reported occurred;
3. The statute(s) or regulation(s) believed to have been violated, if known;
4. Where each act(s), omission(s) or conduct being reported occurred;
5. A narrative description of the act(s), omission(s) or conduct being reported and the surrounding facts;
6. The names, titles, addresses and telephone numbers of all persons present, if known; and
7. The nature of any injury, damage, illness, loss or other detriment which resulted from the act(s), omission(s) or conduct.
8. The following information about the reporting individual or entity:
 - a. Name, address, and telephone number of the person or entity making the report;
 - b. Name, title, and telephone number of the responsible official submitting the report on behalf of an entity;
 - c. Relationship of the reporting person or entity to the health care professional who is the subject of the report.
9. The following information about the health care professional who is the subject of the report:
 - a. Name;
 - b. Home and work addresses and telephone numbers;
 - c. License Number; and
 - d. Date of birth.

5-003.04A Exceptions from Reporting

5-003.04A1 Treating Professionals: A health care professional who is providing treatment to another health care professional in a practitioner patient relationship is not required to report:

1. Information obtained or discovered in the course of treatment unless the treating professional determines that the condition of the person may be of such a nature which constitutes a danger to the public health and safety by the person's continued practice; or
2. Information based on confidential medical records protected by confidentiality provisions of the federal Public Health Services Act, 42 U.S.C. 290ee-3 and 290dd-3 and federal administrative rules and regulations, except as may be provided in such laws or regulations.

5-003.04A2 Licensee Assistance Program: Health care professionals are not required to report a person in the same or different profession of the person making the report for chemical impairment when the person being reported enters the Licensee Assistance Program as authorized by Neb. Rev. Stat. §71-172.01.

5-003.04A3 Spouses: A health care professional who is a spouse of another health care professional will not be required to report the spouse pursuant to 172 NAC 5-003.02 and 5-003.03.

5-003.05 Penalty for Failure to Report Yourself or Other Health Care Professionals: Health care professionals who fail to file reports required by 172 NAC 5-003.01, 5-003.02 and 5-003.03 are subject to discipline pursuant to Neb. Rev. Stat. §71-147 (20).

5-003.06 Immunity: Health care professionals except those self-reporting, that file reports under these regulations, as well as those who submit voluntary complaints, are immune from criminal or civil liability of any nature, whether direct or derivative, for filing reports or complaints with the Department or for disclosure of documents, records, or other information to the Department.

5-003.07 Confidentiality: The Department will treat reports made to it under these regulations against health care professionals as confidential, and the Department will process any and all such reports in the same manner as it processes complaints, and will maintain such information as part of the Department's investigative records as authorized by Neb. Rev. Stat. §71-168.01(7).

5-004 REPORTING BY HEALTH CARE FACILITIES, PEER REVIEW ORGANIZATIONS, AND PROFESSIONAL ASSOCIATIONS:

5-004.01 Health Care Facilities, Peer Review Organizations, and Professional Associations must Report to the Department any Facts Known to Them When :

1. A health care facility has:
 - a. Made payment due to adverse judgment, settlement, or award of a professional liability claim against the health care facility or a health care professional including settlements made prior to suit, arising out of the acts or omissions of the health care professional; or
 - b. Taken actions adversely affecting the privileges or membership of a health care professional due to alleged:
 1. Incompetence;
 2. Professional negligence;
 3. Unprofessional conduct; or
 4. Physical, mental or chemical impairment.
2. A peer review organization has taken action adversely affecting the privileges or membership of a health care professional that are indicative of alleged:
 - a. Professional negligence;
 - b. Incompetence;
 - c. Unprofessional conduct; or
 - d. Physical, mental or chemical impairment.
3. A professional association has taken action adversely affecting the membership of a health care professional in the association due to alleged:
 - a. Incompetence;
 - b. Professional negligence;
 - c. Unprofessional conduct; or
 - d. Physical, mental or chemical impairment.

5-004.02 Information to Report

5-004.02A Reporting Malpractice Payments or Adverse Action by a Health Care Facility:

1. The report must include the following information about the facility that makes the report:
 - a. Name, address, and telephone number of the person or entity making the report;
 - b. Name, title, and telephone number of the responsible official submitting the report on behalf of a facility;
 - c. Relationship of the reporting facility to the health care professional who is the subject of the report.
2. The report must include the following information about the health care professional who is the subject of the report:
 - a. Name;
 - b. Home and work addresses and telephone numbers;
 - c. License Number; and
 - d. Date of birth.
3. The name and address for the patient, client or other person to whom or for whose behalf payment was made;
4. When the action or claim has been filed with a court or other adjudicative body, identification of such court or body by name and address, and the case number;
5. The date of judgment, settlement, or award;
6. Amount paid, date of payment, and whether payment was made for judgment, settlement, or award; and
7. Description of any terms and conditions attached to the payment.
8. The reason(s) and a description of the facts surrounding the reasons for the payment made including:
 - a. The act(s) or omission(s) or conduct giving rise to the payment or adverse action;
 - b. Date or dates on which the act(s) or omission(s) occurred;
 - c. Where the act(s) or omission(s) occurred;
 - d. How the act(s) or omission(s) occurred;
 - e. The name, title, address, and telephone number of all persons present at the time of each act or omission or with firsthand knowledge of the act or omission; and
 - f. The nature of any injury, illness, damage or other loss or detriment upon which the action or claim was based.

5-004.02B Reporting Peer Review or Professional Association Adverse Actions

1. The report must include the following information about the individual or entity that makes the report:
 - a. Name, address, and telephone number of the person or entity making the report;
 - b. Name, title, and telephone number of the responsible official submitting the report on behalf of an entity; and
 - c. Relationship of the reporting person or entity to the health care professional who is the subject of the report.
2. All reports made under these regulations must contain the following information about the health care professional who is the subject of the report:
 - a. Name;
 - b. Home and work addresses and telephone numbers;
 - c. License Number; and
 - d. Date of birth.
3. Date action was taken and its effective date;
4. Duration of the effect of the action;
5. Type of action taken; and
6. Name and address for each patient, client or other person subject to the acts, omissions or other conduct giving rise to the action taken.
7. Reason(s) for the report and a description of the facts surrounding the reasons for the action taken including:
 - a. Act(s) or omission(s) or conduct giving rise to the payment or adverse action;
 - b. Date or dates on which the act(s) or omission(s) occurred;
 - c. Where the act(s) or omission(s) occurred;
 - d. How the act(s) or omission(s) occurred; and
 - e. Name, title, address, and telephone number of all persons present at the time of each act or omission or with firsthand knowledge of the act or omission.

5-004.03 Health Care Facility Peer Review Organizations or Professional Associations

5-004.03A Penalties for Failure to Report: By a Health Care Facility that fails to report as required by these regulations are subject to disciplinary action as authorized by Neb. Rev. Stat. §71- 448 (10).

5-004.03B Immunity: Health Care Facilities that file reports under these regulations, as well as those who submit voluntary complaints, are immune from criminal or civil liability of any nature, whether direct or derivative, for filing reports or complaints with the Department or for disclosure of documents, records or other information to the Department.

5-004.03C Confidentiality: The Department will treat reports made to it under these regulations against health care professionals as confidential; and the Department will process any and all such reports in the same manner as it processes complaints, and

will maintain such information as part of the Department's investigative records as authorized by Neb. Rev. Stat. §71-168 (7).

5-004.04 Data Bank Reports: For purposes of Nebraska reporting requirements the Department will accept reports made by facilities, peer review organizations and professional associations under national practitioner data bank requirements of the Health Care Quality Improvement Act of 1986, as amended.

5-004.04A Nebraska Supplemental Report: In addition to National Practitioners Data Bank reports, facilities, peer review organizations, and professional associations must report to the Department information required by 172 NAC 5-004.02A or 5-004.02B that is not included on the data bank reports by using a form provided by the Department, a copy of which has been included and made a part of these regulations as Attachment 3; or reports may be made on a form constructed by the reporting party.

5-004.05 Other Reports: Facilities, peer review organizations, and professional associations reporting health care professionals not subject to the reporting requirements of the national practitioner data bank provisions of the Health Care Quality Improvement Act of 1986, as amended, must make reports to the Department using a form provided by the Department, a copy of which has been included and made a part of these regulations as Attachment 4; or reports may be made on a form constructed by the reporting party.

5-004.06 Exceptions to Reporting

5-004.06A Members: Persons who are members of committees established under Neb. Rev. Stat. §25-12,123 (Peer Review Committee) and §71-2046 to §71-2048 (Medical Staff Committee or Utilization Review Committee) are not required to report such activities.

5-004.06B Witnesses: Witnesses who appear before committees established under Neb. Rev. Stat. §25-12,123 (Peer Review Committee) and §71-2046 to §71-2048 (Medical Staff Committee or Utilization Review Committee) are not required to report such activities. However, any person who is such a witness is not excused from reporting matters of firsthand knowledge that would otherwise be reportable under these regulations only because s/he attended or testified before such a committee.

5-005 REPORTING BY INSURERS: Insurers doing business in Nebraska must report to the Department no later than 30 days after the date of any of the following acts or event:

1. The insurer has made payment due to an adverse judgment, settlement, or award including settlement made prior to suit, resulting from a professional liability claim arising out of the acts or omissions of the practitioner.
2. The insurer has taken an adverse action that affects the coverage provided by the insurer to a health care professional due to alleged incompetence, negligence, unethical or unprofessional conduct, or physical, mental, or chemical impairment.
3. The insurer has reasonable grounds to believe that a practitioner has committed a violation of the regulatory provisions governing the profession of the practitioner; or

4. The Department has requested the insurer to provide information.

5-005.01 Information to Report

1. Insurers must report the information required by this section to the Department on a form provided by the Department, a copy of which has been included and made a part of these regulations as Attachment 5; or reports may be made on a form constructed by the reporting party.
2. Any facts known to the insurer, including the identity of the practitioner and patient(s) (if any), about the:
 - a. Acts or omissions that resulted in the professional liability claim payment;
 - b. Acts or omissions that lead to adverse action affecting the practitioner's coverage;
 - c. Acts or omissions indicative of a violation of regulatory provisions governing the profession of the practitioner being reported; or
 - d. Information requested by the Department.
3. Insurers who report practitioners under the requirements of the National Practitioner Data Bank authorized by the Health Care Quality Improvement Act of 1986, as amended, must:
 - a. File a copy of the data bank report with the Department; and
 - b. Attach the Nebraska Supplemental Report, a copy of which is Attachment 3, and is incorporated in these regulations, or reports may be made on a form constructed by the reporting party, to the National Practitioner Data Report.

5-005.02 Exceptions to Reporting: An insurer is not required to report when:

1. The information is based on confidential medical records protected by the confidentiality provisions of the federal Public Health Services Act U.S.C. 290dd-2, and federal administration rules and regulations.
2. A practitioner's professional liability coverage rate is increased but any such increase is not based on grounds that would be reportable under these regulations.
3. The information is gained by the filing by or on behalf of a health care professional of a claim for payment under his/her health insurance policy.

5-005.03 Penalty for Failure to Report: Any insurer who fails or neglects to make a report to or provide information as requested by the Department within a reasonable time is guilty of a Class IV misdemeanor, unless such insurer has reported the required facts to a law enforcement agency.

5-005.04 Immunity from Liability for Insurer Reporting: Any insurer or employee of an insurer who makes a report as required by these regulations is immune from criminal penalty of any kind or from civil liability or other penalty for slander, libel, defamation, breach of the privilege between patient and physician or between client and professional counselor, or violation of the laws of the State of Nebraska relating to the business or insurance that may be incurred or imposed on account of or in connection with the making of such report.

EFFECTIVE DATE
OCTOBER 9, 2006

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

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5-005.05 Confidentiality: The Department will treat reports from insurers that contain or relate to privileged communications between patient and practitioner as privileged communications and will maintain such information as part of the Department's investigative records. Such reports may not be obtained by legal discovery proceedings or otherwise disclosed unless the privilege is waived by the patient involved or the reports are made part of the record in a contested case under Neb. Rev. Stat. §71-154, in which case such reports will only be disclosed to the extent they are made part of such record.

Approved by the Attorney General on September 20, 2006

Approved by the Governor on October 4, 2006

Filed with the Secretary of State on October 4, 2006

Effective Date: October 9, 2006

Reporting Forms referred to as Attachments 1 through 5 may be obtained by contacting Health and Human Services Regulation and Licensure:

Investigations Division

P.O. Box 95164

Lincoln, NE 68509-5164

(402) 471-0175

Website: www.hhss.ne.gov/reg/invest-p.htm

To place a complaint, you may call: Investigations Division (402) 471-0175

ATTACHMENTS FOR TITLE 172, CHAPTER 5



**STATE OF NEBRASKA
DEPARTMENT OF HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE –DIVISION OF INVESTIGATIONS
P.O. Box 95164, Lincoln, Nebraska 68509-5164
402-471-0175**

HEALTH CARE PROFESSIONAL SELF-REPORTING ADVERSE ACTION

INDICATE THE TYPE OF SITUATION YOU ARE REPORTING:

- ☐ Loss or Voluntary Limitation of Privileges ☐ Resignation from Staff ☐ Loss of Employment
☐ Professional Liability ☐ Credential Denied or Disciplined ☐ Membership Lost ☐ Court Conviction

IDENTIFYING INFORMATION – COMPLETE ALL ITEMS

Name:	First:	Middle/MI	Last:	Maiden:
Work Address:	Street/PO/Route:			
	City:	State:	Zip:	
Home Address:	Street/PO/Route:			
	City:	State:	Zip:	
Telephone	Home:		Work:	
Optional	Cell Phone		E-Mail Address	

LIST THE FIELD AND NUMBER FOR EACH NEBRASKA LICENSE, CERTIFICATE OR REGISTRATION HELD

License Field	License Number

PATIENT OR CLIENT NAME ASSOCIATED WITH THIS REPORT

Name:	Address	
City	State	Zip
Date of Birth		

FACILITY, BOARD, ASSOCIATION, JURISDICTION, EMPLOYER, OR HOSPITAL ASSOCIATED WITH THIS REPORT

Name:	Address	
City	State	Zip

- | | |
|---|----------|
| Date the above action occurred: | |
| Date of Incident that lead to 1, 2 or 3 above: | |
| Name of person investigating or acting on privileges or employment: | |
| Name of Facility: | |
| Address: | |
| Telephone Number: | |
| Facility Incident occurred at if different: | Name: |
| | Address: |

Describe the conduct, omission or other reason that caused your loss of employment or affected your privileges.

[illegible]

PROFESSIONAL LIABILITY REPORT

1. ☐ I had a professional liability claim that resulted in an adverse judgement, settlement or award, including settlements made prior to suit. OR
2. ☐ My professional liability insurance coverage has been cancelled, limited or otherwise modified due to a professional liability claim. OR
3. ☐ I have been refused professional liability insurance coverage on an initial or renewal basis due to professional liability claim.

Date(s) on which the act(s) or omission(s) which gave rise to the action or claim occurred:			
Date the action or claim was filed with a court or other adjudicative body:			
Date of <input type="checkbox"/> judgement <input type="checkbox"/> settlement or <input type="checkbox"/> award:		Day	Month
Date of Payment		Year	
Amount			
Case Number			
Name of court or adjudicative body	Name		
	Address		
	City	State	Zip
Insurer, employer, other person or entity making payment of the claim	Name		
	Address		
	City	State	Zip
	Contact Person:	Telephone No.	
Patient, client or other person to whom or for whose behalf payment was made	Name		Telephone No.
	Address		
	City	State	Zip
Location where act(s) or omission(s) occurred	Name		
	Address		
	City	State	Zip
Description of the act(s) or omission(s) upon which the action was based.			

Use additional paper if necessary.

- | | | | |
|--|-------------------|-----------------------|--------------------|
| Board, Association,
Organization or Jurisdiction
Taking Action | Name | | Telephone No. |
| | Address | | |
| | City | State | Zip |
| | Date Action Taken | Date Action Effective | Duration of Action |
| Nature of the action and description of any terms and conditions: | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

- [illegible]



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402-471-0175**

HEALTH CARE PROFESSIONAL REPORTING ANOTHER HEALTH CARE PROFESSIONAL

IDENTIFYING INFORMATION FOR PERSON I AM REPORTING

Name:	First:	Middle/MI	Last:	Maiden:	Date of Birth:
Work Address:	Street:				
	City:	State:		Zip:	
Home Address	Street:				
	City:	State:		Zip:	
Telephone	Home:		Work		

Field of Licensure:	Nebraska License Number:
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A. I AM IN THE SAME PROFESSION AND IT IS NECESSARY FOR ME TO REPORT

- ☐ A pattern of negligent conduct
- ☐ Unprofessional conduct
- ☐ Other violations of laws or regulations governing the practice of the profession
- ☐ Gross incompetence
- ☐ Practicing while his/her ability to practice is impaired by:
 - ☐ Controlled substances
 - ☐ Alcohol
 - ☐ Narcotic drugs
 - ☐ Physical disability
 - ☐ Mental disability
 - ☐ Emotional disability

B. I AM IN A DIFFERENT PROFESSION AND IT IS NECESSARY FOR ME TO REPORT

- ☐ Gross incompetence
- ☐ Practicing while impaired (Check boxes in A above under Practicing while impaired)

IDENTIFYING INFORMATION FOR PERSON MAKING THE REPORT

Name:	First:	Middle/MI	Last:	Maiden:
Work Address:	Street:			
	City:		State:	Zip:
Home Address	Street:			
	City:		State:	Zip:
Telephone	Home:	Work:		Cell:
E-mail:				
Preferred Contact Number:				

INFORMATION TO REPORT

Act, omission or conduct being reported
Date of occurrence
Statute, or regulation believed to have been violated, if known
Where did it occur?
Description of conduct and facts surrounding it
Nature of any injury, damage, illness, detriment or loss that resulted from the conduct, act or omission

Names, addresses and telephone numbers of all persons present

Your relationship to the person you are reporting
--



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NEBRASKA SUPPLEMENTAL REPORT

Identifying Information for Person I am Reporting

Name:	First:	Middle/MI	Last:	Maiden:	Date of Birth
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Where did the Incident Occur?

Facility:

Address:

Patient or Client

Name:

Date of Birth:

Address:

List all Persons Present at time of Incident that would have Firsthand Knowledge of the Incident.

Name	Title	Address

Reporting Party

Name:

Title:

Organization:

Address:

Telephone No.

FAX No.

E-mail Address:

Relationship to Health Care Professional being Reported:



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**REPORTING BY HEALTH CARE FACILITIES, PEER REVIEW ORGANIZATIONS AND
PROFESSIONAL ASSOCIATIONS**

IDENTIFYING INFORMATION FOR PERSON I AM REPORTING

Name:	First:	Middle/MI	Last:	Maiden:	Date of Birth:
Work Address:	Street:				
	City:		State:	Zip:	
Home Address	Street:				
	City:		State:	Zip:	
Telephone	Home:		Work		

LIST THE FIELD AND NUMBER FOR EACH NEBRASKA LICENSE, CERTIFICATE OR REGISTRATION HELD

License Field	License Number

Reporting Party	
Name:	
Title:	
Organization:	
Address:	
Telephone No.	FAX No.
E-mail Address:	
Relationship to Health Care Professional:	

EFFECTIVE DATE: OCTOBER 9, 2006

We are a:

- ☐ Health Care Facility ☐ Peer Review Organization ☐ Professional Association

We have (Health Care Facility Only)

- ☐ Made a payment due to adverse judgement, settlement or award of a professional liability claim against the health care facility or health care professional.
- ☐ Taken actions adversely affecting the privileges, membership or employment of a health care professional due to alleged:
- ☐ Incompetence
 - ☐ Professional negligence
 - ☐ Unprofessional conduct
 - ☐ Physical, mental or chemical impairment

We have (Peer Review Organizations or Professional Associations Only)

- ☐ Taken an action adversely affecting the privileges or membership of a health care professional due to alleged:
- ☐ Incompetence
 - ☐ Professional negligence
 - ☐ Unprofessional conduct
 - ☐ Physical, mental or chemical impairment

REPORTING AN ADVERSE ACTION

Date action was taken:
Effective date:
Duration of the effect of the action:
Type of adverse action taken:
Patient or client giving rise to the action taken
Name:
Address:
Detailed description of act, omission or conduct surrounding the reason action taken
Date of the act, omission or conduct
Where did it occur?
List persons present at the end of the next page

MALPRACTICE PAYMENT

Name of patient or client:
Address:
Name of court:
Address:

EFFECTIVE DATE: OCTOBER 9, 2006

Date of judgement, settlement or award:	
Date of payment:	
Amount of payment:	
Description of the facts surrounding the reason for the payment for the act or omission:	
Date of occurrence:	
Where did it occur?	
How did the act or omission occur?	
The nature of any injury, illness, damage or other loss upon which the claim was based:	
Persons present at time of act or omission or with first hand knowledge:	
Name	Title
Address	Telephone
Name	Title
Address	Telephone
Name	Title
Address	Telephone



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REPORTING BY INSURERS

PROFESSIONAL I AM REPORTING

Name:	First:	Middle/MI	Last:	Maiden:	Date of Birth:
Work Address:	Street:				
	City:		State:	Zip:	
Home Address	Street:				
	City:		State:	Zip:	
Telephone	Home:		Work		

LIST THE FIELD AND NUMBER FOR EACH NEBRASKA LICENSE, CERTIFICATE OR REGISTRATION HELD

License Field	License Number

Reporting Party	
Name:	
Title:	
Organization:	
Address:	
Telephone No.	FAX No.
E-mail Address:	
Relationship to Health Care Professional:	

☐ Denial of coverage

☐ Refusal to renew coverage

☐ Coverage terminated or cancelled

☐ Coverage limited, reduced or modified

☐ Premium or rate increase

☐ Other

☐ Person is subject to National Practitioner Data Bank requirements and Data Bank Supplement form completed.

☐ Person not subject to National Practitioner Data Bank and next page completed.

- ☐ 3. The insurer has reasonable grounds to believe that the practitioner has committed a violation of the regulatory provisions governing the profession or practitioner.
- ☐ 4. The Department has requested the insurer to provide information.

Patient or Client	
Name:	Date of Birth:
Address:	

Location of act, omission or conduct being reported
Name:
Address:

Date of Occurrence:

[illegible]

MALPRACTICE PAYMENT

Name of patient or client:	
Address:	
Name of court:	
Address:	
Date of judgement, settlement or award:	
Date of payment:	
Amount of payment:	
Description of the facts surrounding the reason for the payment for the act or omission:	
Date of occurrence:	
Where did it occur?	
How did the act or omission occur?	
The nature of any injury, illness, damage or other loss upon which the claim was based:	
Persons present at time of act or omission or with first hand knowledge:	
Name	Title
Address	Telephone
Name	Title
Address	Telephone
Name	Title
Address	Telephone